

ADR and Federal Procurement



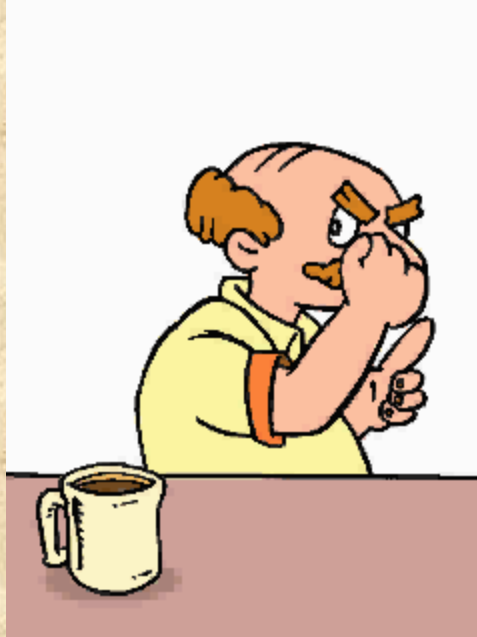
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Interaction of Power, Rights, & Interests

- ◆ Power: Determine who is more Powerful
 - acts of aggression
 - withholding benefits from the relationship
- ◆ Rights: Determine Who is More Right
 - law or contract
 - seniority, reciprocity, fairness
- ◆ Interests: Reconcile Underlying Interest
 - needs, desires, concerns, fears



Avoidance, Violence, Litigation, Negotiation



- ◆ Avoidance
 - fighting with a spouse who doesn't respond to you: you want to fight, but they won't say anything
- ◆ Violence
 - school children on the playground
- ◆ Litigation
 - divorce - get lawyers and you duke it out in court
- ◆ Negotiation
 - assisted or unassisted

Negotiation

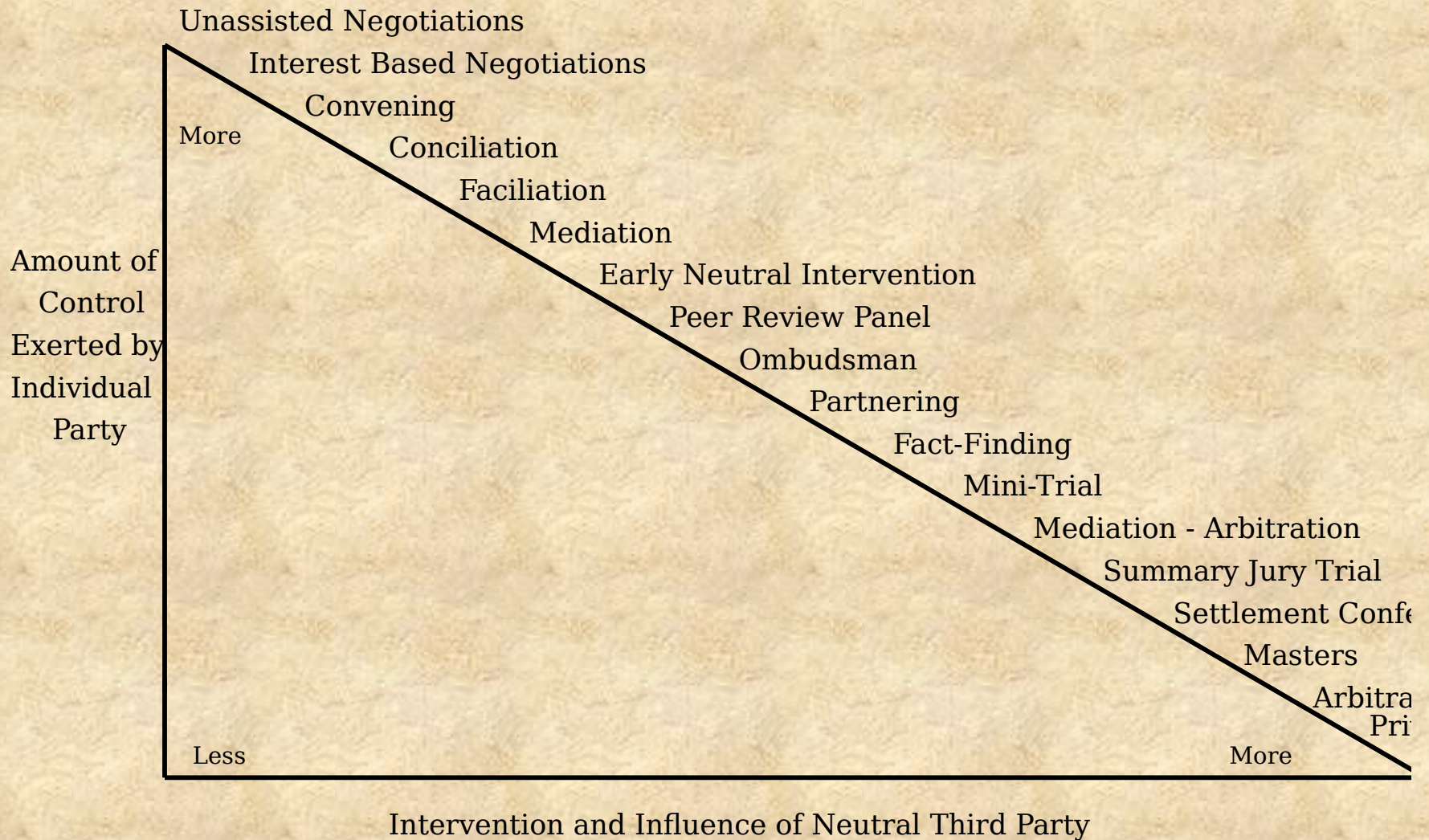
- ◆ Various Environments
 - parties intend to work together afterward
 - parties have not had, nor intend future dealings
 - previous relationship will continue with some animosity and tension
- ◆ Various Goals
 - competitor
 - defender
 - problem solver
- ◆ Various Techniques
 - subtle messenger
 - user of time constraints
 - wolf in sheep's clothing
 - start high
- ◆ Principled Negotiation



Principled Negotiation

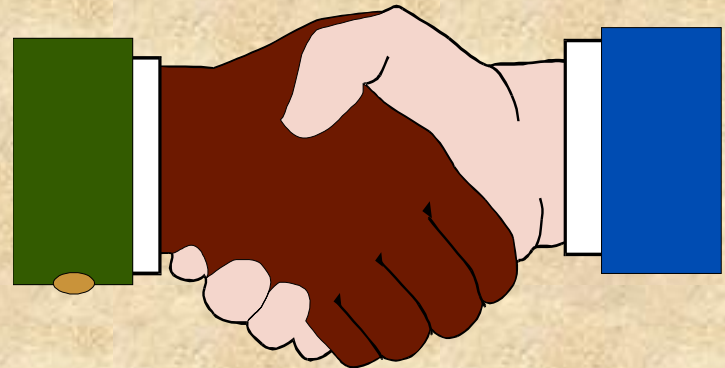
- ◆ Interests
 - legal, short and long term, political, personal or emotional, timing conditions
- ◆ Options
 - possibilities
- ◆ Alternatives
 - BATNA
 - WATNA
- ◆ Legitimacy
 - objective criteria
- ◆ Commitments
 - intentions
- ◆ Communications
 - information flow
- ◆ Relationship
 - interaction





Benefits of ADR

- ◆ Has the potential to resolve disputes faster and at less cost
- ◆ Usually, the parties maintain more control over the process and the outcome
- ◆ Can provide a foundation for an improved relationship between the parties



Mediation

- ◆ Favored technique
- ◆ If no settlement, can continue formally
- ◆ Parties decide
- ◆ Useful in many arenas
- ◆ Generally involves a mediator structuring the environment to have principled negotiation
- ◆ Can be effective even when you say: “No way can these parties settle”

